

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TROY L. MILLER,

Plaintiff,

CASE NO. 1:17-CV-690

v.

HON. ROBERT J. JONKER

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

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**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Carmody’s Report and Recommendation in this matter (ECF No. 13), Plaintiff’s Objections (ECF No. 14), and Defendant’s Response (ECF No. 15). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE, § 3070.2, at 451 (3d ed. 2014). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the

Report and Recommendation itself; and Plaintiff's objections. The Court finds the Magistrate Judge's Report and Recommendation, which recommends affirming the decision of the ALJ, factually sound and legally correct.

The ALJ determined that Plaintiff was disabled as of April 14, 2016, but not before then. The Magistrate Judge found that substantial evidence supports the ALJ's decision. In his Objections, Plaintiff simply reiterates and expands arguments he made in his original briefing: first, that the ALJ failed to incorporate his finding of moderate limitations in concentration, persistence, and pace into his RFC determination with enough specificity; and second, that the ALJ violated the treating physician rule as to Drs. Stevenson and Growney by failing to explain adequately his reasons for discounting their opinions. The Magistrate Judge carefully considered and properly rejected these arguments. Nothing in Plaintiff's Objections changes the fundamental analysis. Substantial evidence supports the ALJ's decision, for the very reasons detailed in the Report and Recommendation.

ACCORDINGLY, IT IS ORDERED:

1. The Report and Recommendation of the Magistrate Judge (ECF No. 13) is approved and adopted as the opinion of the Court.
2. Plaintiff's Objections (ECF No. 14) are **OVERRULED**.
3. The Commissioner's decision is **AFFIRMED**.

Dated: September 5, 2018

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE